

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

May 16, 2000

The Capital Projects and Bond Oversight Committee met on Tuesday, May 16, 2000 at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jodie Haydon, Chairman; Senator Bob Leeper, Vice Chairman; Senators Tom Buford and Bob Jackson; and Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Guests testifying before the Committee: Secretary John McCarty, Commissioner Armond Russ, and Jim Abbott, Finance and Administration Cabinet; Senator Marshall Long; Kevin Flannery, Transportation Cabinet; Mike Baker, Northern Kentucky University; Bill Hintze, Governor's Office for Policy and Management; Charles Bush, Department for Fish and Wildlife Resources; Cicely Jaracz Lambert and Garlan Vanhook, Administrative Office of the Courts; Paul Groves and Tim Skinner, Skinner-Groves Architects; Henderson County Judge-Executive Sandy Watkins; Greg Phillips, Hilliard-Lyons; and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Jack Affeldt, Lola Williamson Lyle, Kevin Mason, Lou Pierce, and Shawn Bowen.

Representative Marcotte made a motion to approve the minutes of the April 11, 2000 meeting as submitted. The motion was seconded and passed by voice vote.

Chairman Haydon called on Ms. Mary Lynn Collins, Capital Projects and Bond Oversight Committee Staff Administrator, to review various items included in members' folders. She noted several correspondence items: the Kentucky Lottery Corporation's monthly financial status report for March 2000; information on the recently enacted budget; and a memorandum from the LRC Economists Office relating to state-appropriated debt.

Ms. Collins also reviewed items included in the newsletter prepared by Committee staff to keep members updated about active capital projects. She noted the regional postsecondary education center to be built in Glasgow is now under a construction contract and the regional center to be built in Christian County will be bid later this

month. She also said construction bids for the Western Kentucky University Center for Instructional Technology and Communications came in over budget, and the University is likely to redesign and rebid the project.

Chairman Haydon said last month the Committee did not take action on an agenda item submitted by the Finance and Administration Cabinet - the design and construction of the Battle Simulation Center at the Wendell H. Ford Regional Training Center - because concerns were expressed that the project was not submitted through the regular budget process. He said Secretary McCarty has since corresponded with the Committee, indicating that he has decided to permit that project to go forward.

Chairman Haydon introduced Finance and Administration Cabinet Secretary John McCarty and Senator Marshall Long to discuss the new Transportation Cabinet Office Building. He said members requested this briefing last month after reviewing a news article in the Frankfort *State Journal* in which a Finance Cabinet official was quoted as saying that by building this facility in downtown Frankfort rather than on state-owned property on the East-West Connector, the project will cost an additional \$30 million.

Secretary McCarty said he appreciated the opportunity to appear before the Committee and update members on the new Transportation Cabinet Building. He then introduced Mr. Kevin Flannery, Deputy Secretary, Kentucky Transportation Cabinet. Secretary McCarty said originally this project was approved during the 1998 legislative session for \$87 million with a site undetermined. After studying alternatives and policy directions of the Governor relative to maintaining and preserving the viability of downtowns, a decision was made to locate the building in downtown Frankfort on Mero Street.

Secretary McCarty said the building will be approximately 420,000 square feet. During the 2000 legislative session, an additional appropriation of \$7.5 million for the building was authorized as well as \$20 million for a 1,500 space parking garage. He said the project will be completed under the traditional method of construction, design-bid-build.

Secretary McCarty said the major cost increase for this project is the parking garage, and given current concerns regarding appropriate land use, a parking structure would have been built, regardless of the site decision.

Secretary McCarty said the other major component of cost is land acquisition; the range of cost for land acquisition at the downtown location will be between \$5.3 and \$8 million. He said some soil conditions at the building site will require a specific piling system for the foundation that will cost an additional \$2.3 million, and at a cost of \$10-\$13 million, a new central utility plant will be built as part of the project to serve the new

Transportation Cabinet building, the old State Office building, and possibly the Capital Plaza Tower.

Secretary McCarty said they view the new Transportation Cabinet building as an economic catalyst for downtown Frankfort. He said they believe money is being well invested and well spent, considering the life of this building which will be well in excess of 50 years.

Representative Wayne commended Secretary McCarty for his efforts and said he thought the philosophy of reinvesting in downtown Frankfort is wise.

Representative Marcotte said at last month's meeting, he expressed concerns about the additional \$30 million being spent for the new Transportation Cabinet building, but Secretary McCarty had addressed his concerns. He then asked what the state will do with the property it has on the Carpenter Farm, off the East-West Connector. Secretary McCarty said that property will be evaluated for additional state offices.

Senator Leeper asked if the parking structure will be used only by Transportation Cabinet employees. Secretary McCarty said the parking structure should help alleviate parking problems for other downtown offices and it will be available off-hours for public parking. He added that the parking structure will be located close to the Farnham-Dudgeon Arena and will serve as additional parking for major events at that facility.

Senator Leeper asked if the new office building will negatively impact any historic buildings. Secretary McCarty said they have worked very closely with all of the historical groups to ensure that historically significant buildings are appropriately treated, but they are still working through some of those issues.

Senator Long said he supported a downtown site for the new building because it makes economic sense for the local downtown merchants. He said a local group of private citizens is discussing the possibility of forming a non-profit corporation to redevelop the Holmes Street area, and if that is done, downtown Frankfort will look much better. He said Frankfort is one of the few cities that has a viable downtown and this new building will generate redevelopment.

Mr. Flannery said they have worked very closely with the Finance and Administration Cabinet to make sure this building meets the needs of the Transportation Cabinet, state government, and the community as a whole. He said they studied a lot of different options, and believe everyone's needs will be met at the selected location.

Chairman Haydon said he appreciated the Secretary's presentation and thought the new building was a good idea for local government and local merchants.

Senator Leeper asked Secretary McCarty about the status of the management agreement for Western Kentucky University relating to the transfer of its housing assets to the Student Life Foundation. Secretary McCarty said the preliminary appraisal of the assets is ready and he has communicated with the University what he believes needs to be in the management agreement. He said basically it contains most of the items previously discussed by the Committee, including reporting requirements for construction. He said it will be provided to the Committee once it is finally negotiated, possibly within the next month.

Representative Wayne commented on the Battle Simulation Center project at the Wendell H. Ford Regional Training Center which the Committee did not take action on last month. He told Secretary McCarty the Committee was concerned with the timeliness of the Department of Military Affairs request. He said at the time the project was presented to the Committee, the legislature was still working on the budget, and the Committee thought the project should have been part of the budget process.

Chairman Haydon said at the Committee's last meeting, members asked for a briefing on the Northern Kentucky University (NKU) Residential Village dormitory complex and structural problems relating to its outside breezeways and stairs. He said the 2000 General Assembly authorized NKU to proceed with needed repairs, estimated to cost \$950,000. Chairman Haydon introduced Mr. Mike Baker, Vice President for Administration and Finance at NKU, to update the Committee on the project.

Mr. Baker said the dormitory complex was constructed in 1992 using the built-to-suit lease process. Upon completion of the project, the University and the builder filed suit against each other; the builder went bankrupt, and an out-of-court settlement with the University occurred in 1997.

Mr. Baker said this past winter the University discovered that one of the dormitory complex's breezeways was sagging. An engineering firm was hired to further review the project and determine if the problem was isolated or whether it was a structural/design problem. In January, Schlessor Engineering reported there was a design flaw that needed to be addressed in all of the breezeways. Mr. Baker said the University immediately did some temporary shoring and began working with state officials to get a project approved by the General Assembly.

Mr. Baker said the University was advised by legal counsel that because of the settlement with the builder in 1997, the University has no legal recourse. However, he said they are still considering the situation.

Mr. Baker said in 1998, the project was refinanced which resulted in a net savings of \$750,000. The current lessor is Fifth Third Bank Leasing Company, and while that company is technically the owner, it only holds nominal title and serves as an intermediary. He said in order to issue the tax-exempt financings, the benefit and burden of ownership must fall on the governmental unit or the University, so all vestiges of ownership rest with the University.

Representative Wayne asked if prevailing wage guidelines were used by the builder. Mr. Baker said he was not sure, but he would find out. Representative Wayne said this situation may be a good argument for prevailing wage and he would appreciate an answer.

Senator Jackson asked if the engineering firm recently hired by NKU had looked at the entire complex. Mr. Baker said they looked primarily at the breezeways. Senator Jackson said he would encourage the University to have the entire complex inspected. He said it would be money well spent because there may be problems with other parts of the buildings. Mr. Baker said they will certainly take a hard look at the issue.

Representative Damron asked if the problems with the breezeway were design or workmanship problems. Mr. Baker said they believe the problem is one of design. He explained that the boards had deteriorated and moisture was getting trapped in the boards. Representative Damron noted in response to Representative Wayne's earlier question as to whether the project had been subject to the state's prevailing wage, engineers are not subject to the prevailing wage rules. He said more effort should be put into looking at the engineering quality of the work, as opposed to whether labor is unionized or paid the prevailing wage.

Representative Marcotte asked what the University's timetable is for repairing or replacing the breezeways. Mr. Baker said the University is hoping to complete the work this summer, but until an architect is hired, the timetable is uncertain. He said they are looking at a phased approach to the repairs since the shoring work on the breezeways alleviated any immediate danger.

Chairman Haydon said last month members also asked for additional information regarding the Revenue Cabinet's scanning and imaging system, but due to time constraints, this item will be discussed at the Committee's June meeting.

Chairman Haydon next introduced Mr. Bill Hintze, Deputy Budget Director, Governor's Office for Policy and Management (GOPM), and Commissioner Armond Russ, Department for Facilities Management, to discuss the three statutory capital construction funds and five projects submitted by the Finance and Administration Cabinet.

Mr. Hintze said for the first time the Executive Branch recommended in the recently completed session that a portion of the Emergency Repair, Maintenance and Replacement Fund be appropriated to fund certain projects. He said the Administration took this action for several reasons: (1) the projects funded had acute needs; (2) the Fund was barely used during a two-year period; and (3) the Fund was at a near-record balance. The Governor recommended that approximately \$7 million in Emergency Funds be used for line-item projects, leaving a balance of approximately \$7 million in the Fund. At the same time, the Governor's recommended budget included an appropriation of over \$5 million. However, the final budget only contained \$714,000 in a biennial appropriation for the Emergency Fund. He said two other avenues were provided by the General Assembly to replenish that money: additional money from the unneeded debt service will be appropriated if the Emergency Fund dips below \$5 million, and a direct line appropriation of \$4.5 million was included in the Surplus Expenditure Plan. At the close of the fiscal year, if there is a surplus that exceeds the amount necessary for the postsecondary education endowment program (\$120 million), the first call for additional funding will be to replenish the Emergency Fund.

Mr. Hintze then discussed the Capital Construction and Equipment Purchase Contingency Fund which received a \$2 million appropriation rather than the \$7.5 million recommended by the Governor. (The Contingency Fund is next in line after the Emergency Fund to receive an additional appropriation of \$5.5 million if there is sufficient money in the Budget Surplus.) He said while the Contingency Fund has not been heavily used this biennium, and the Department for Facilities Management has had some fairly remarkable success recently bidding projects, the Administration has some concerns relating to the Contingency Fund balance since the large body of projects authorized in the 1998 session have not reached the construction stage.

Mr. Hintze assured the Committee that the Emergency and Contingency Funds will be used in a very conservative manner. Funds will not automatically be made available without some scrutiny and examination of other options.

Mr. Hintze said the Statewide Deferred Maintenance Fund had grown to a substantial balance and it was the Governor's view that the Fund should be used to appropriate funding for specific deferred maintenance projects. He said after projects recommended by the General Assembly are funded, the remaining balance in the Fund will be \$331,000. He said the Fund may be replenished by certain lapses of unneeded debt service.

Mr. Hintze next discussed the five projects submitted this month by the Finance and Administration Cabinet.

Mr. Hintze reported a \$287,400 allocation from the Emergency Repair, Maintenance and Replacement Account for two roof replacement projects at Western Kentucky University; \$108,600 will be used to replace the Heating Plant Building roof and \$178,800 will be used to replace the Service Supply Building roof.

Senator Jackson asked if there will be any insurance recovery for the Service Supply Building roof since it was damaged during a hailstorm in April of 1998. Mr. Hintze said he did not know, but said he would check with WKU officials.

Chairman Haydon noted that no further action is required on emergency projects.

Mr. Hintze then discussed an allocation of \$420,750 from the Heritage Land Conservation Fund to the Department of Fish and Wildlife Resources for the acquisition of 200 acres in Breckinridge County, known as the Yellowbank Wildlife Management Area.

Representative Wayne said \$420,750 is a lot to pay for that amount of land in Breckinridge County. Mr. Charles Bush, Department of Fish and Wildlife Resources, said the land has not been purchased yet, and the Department will do an appraisal before purchasing. Chairman Haydon noted that no further Committee action is required for this project.

Mr. Hintze next reported a scope increase for an emergency project at Eastern Kentucky University (EKU). He said the Finance and Administration Cabinet has authorized an increase of \$947,317 (restricted funds) for the ECU student housing fire safety project. The revised project scope is \$5,114,317.

The final project Mr. Hintze discussed was a modification to a report made to the Committee at its April meeting dealing with the Morehead State University (MoSU) Artificial Turf Replacement project. Mr. Hintze said the project is estimated to cost \$538,000, compared to a previously estimated cost of \$600,000. Also, the University's private donor for this project would like to space the contribution out over a five-year period, rather than pay cash up front. Mr. Hintze said the funds are certified in writing and the University will advance fund the project from restricted agency funds until they are reimbursed in full by the private contribution. If the contribution does not materialize, restricted agency funds will continue to fund the project.

In response to a question from Representative Damron, Mr. Hintze explained the process for processing newly approved community development projects. He said of the 721 projects listed in the Budget Bill, all but one, the Woodford County Hospital project, are appropriated for the new biennium. The Woodford County Hospital project for \$500,000 was a current year appropriation, and after a Memorandum of Understanding

(MOU) is signed, those funds will be disbursed. Mr. Hintze said the remainder of the projects will follow a process similar to the 1998 Surplus Expenditure Plan projects.

Mr. Hintze said over 90% of the community development projects are local grants; the remainder are state-administered construction projects to be handled through conventional construction, either through the Department for Facilities Management or the universities. He said the Governor's Office of Constituent Services is working with local officials and state legislators to define and describe the community development projects. They anticipate the descriptions will be compiled and published by the end of May. He explained that the budget bill assigned all 721 community development projects to the Finance Cabinet, but Secretary McCarty is permitted to reassign the projects to other cabinets or agencies that might be more appropriate to administer the projects. Mr. Hintze said a preliminary reassignment list has been generated and they plan to share the list with the Committee in June. Mr. Hintze said the individual agency in charge of a project will enter into a MOU with the recipient local entity that will set out the parameters of the project and a cash draw schedule for each project will also be negotiated where necessary.

Mr. Hintze said approximately six key agencies will administer the projects: the Transportation Cabinet; the Education, Arts & Humanities Cabinet; the Finance and Administration Cabinet; the Department for Local Government; the Economic Development Cabinet; and the Department of Parks.

Representative Damron asked if project descriptions will be discussed with area legislators to ensure the description is correct before it is published. Mr. Hintze said even though he will be the final editor, Constituent Services in the Governor's Office is responsible for this task; they have regional contacts and are compiling the project descriptions.

Chairman Haydon next called on Ms. Cicely Jaracz Lambert, Director of the Administrative Office of the Courts (AOC) and Mr. Garlan Vanhook, General Manager for Facilities, to present a project report for a cost overrun on the Henderson County Court Facility project.

Ms. Lambert introduced Mr. Garlan Vanhook, the recently appointed General Manager for Facilities at AOC. She thanked the Committee for its support and thanked Representative Damron for sponsoring House Bill 734. Ms. Lambert said HB 734 will have a substantial impact on the courthouse projects and will assure greater oversight by AOC and by the Committee. She said Chief Justice Lambert recently sent out letters to county judges with authorized court projects informing them of the passage of HB 734 and its impact on their projects.

Mr. Vanhook discussed the Henderson County Courthouse project, authorized by the 1998 General Assembly at a scope of \$8,019,800. He said the construction bid for the project came in over budget and AOC has authorized the use of the Court Facility Use Allowance Contingency Fund to increase the annual use allowance by 15% (\$96,470). AOC also authorized extending bond financing from 20 to 26 years. He explained that the building, as originally planned, contained 50,400 square feet, but the final design increased to 65,400 square feet. He said 3,000 square feet were added because the project had to adhere to National Center for State Courts standards, additional wiring was required, and additional square footage was added in the basement for holding cells, storage, and future growth.

Mr. Vanhook introduced the project architects, Mr. Paul Groves and Mr. Tim Skinner of Skinner-Groves Architects, and Henderson County Judge-Executive Sandy Watkins.

Judge Watkins said he serves on AOC's Court Facilities Standards Committee and members of that Committee had noted flaws in the oversight process for court projects and he felt HB 734 would address many of those problems. He said the Henderson project was funded in 1998, but progress was slowed because of problems in acquiring the property. He said the project was bid in multiple packages because it made the best deal for the Commonwealth and the taxpayer. He called upon Mr. Skinner to further discuss the construction bid.

Mr. Skinner said the construction bid was structured in the conventional manner in which they advertised for a general construction bid as a whole lump sum, but they also bid the mechanical and the electrical work separately. Mr. Skinner said low bids received for the mechanical and electrical work were accepted, but assigned to the general contractor so there is a single contract and one party responsible for the entire project. The bid structure created a very competitive situation.

Mr. Greg Phillips, Bond Counsel, Hilliard-Lyons, said the financing was sold as a traditional bond issue by competitive bid. He said there were seven bids for the bonds, and the winning bidder was Hilliard-Lyons. He said what was unique about this financing is that based on discussions on this issue, Moody's Investors Service has indicated it will now assign a AA3 rating to all AOC financings which are to be financed 100% by AOC. He said it is a programmatic rating similar to the rating schools receive when financing projects with School Facilities Construction Commission participation. He said this will help lower interest costs and save money on all projects going forward.

Representative Damron asked how the cost per square foot for the Henderson County Courthouse (\$116) compares to the cost per square foot for other courthouses in the state. Mr. Vanhook said the per unit cost is very competitive and noted one court

project bid recently came in at \$150 per square foot. He said the competitive bid received is due to the additional work the architects did to package the bid as previously explained. He said they were able in this procurement to divide the project into smaller pieces, as is done under construction management, while still using a general contractor.

Representative Damron asked about the status of the state standards for court facilities AOC is developing pursuant to HB 734. Mr. Vanhook said the guidelines are being prepared and should be completed by August 1.

Representative Damron said he would encourage AOC to put a tight rein on the architects until those standards are designed and developed. He commended AOC for its efforts to get these policies written in a timely manner.

Chairman Haydon asked that AOC keep the Committee informed as the standards are refined and reformed.

In response to questions from Senator Buford, Mr. Vanhook said the reason a basement was added in the final design is because the site is on the foundation of an older building that had a basement that had been previously backfilled, and it was more cost effective to add the basement. Part of the unfinished basement will be used for the courts' storage needs and for future growth. The balance will serve as the sallyport and prisoner holding cell area.

Senator Buford asked if the basement square footage was figured into the full square footage when the price per square foot was calculated. Mr. Vanhook responded that it was considered as part of the overall cost. Senator Buford said without the basement, the cost may have been as much as \$150 per square foot.

Chairman Haydon introduced Mr. Jim Abbott, Director, Division of Real Properties, to discuss state leases with square footage modifications and a lease modification report.

Mr. Abbott first commented on the \$420,750 allocation for the acquisition of 200 acres in the Yellowbank Wildlife Management Area which was discussed earlier. He said normally 15-20% of the money allocated for Heritage Land Conservation projects is set aside for management. He noted that most properties purchased under this program are very heavily timbered hardwood properties and the value of the properties are in those hardwoods.

Mr. Abbott then reported 16 state agency leases which have been modified to increase the amount of space leased. He also reported on one lease modification for the Department for Administration, Division of Printing (PR-2323, Franklin County). Mr.

Abbott said the Division of Printing submitted a request to install an additional electrical transformer at its Myrtle Avenue facility at a cost of \$5,908.

Chairman Haydon said no action was required for the lease modifications since they were less than \$50,000.

Next, Mr. Tom Howard, Office of Financial Management, reported three items for the Committee's consideration. He first reported a new bond issue report for Kentucky State Property and Buildings Commission Revenue Bonds, Project No. 66, for \$65,862,435. Proceeds from this issue will provide permanent financing for the University of Kentucky Stadium expansion and other projects authorized in the 1998 session as agency bond projects.

Senator Buford asked why the State Property and Buildings Commission is being utilized for bond issuance when normally bonds to be supported by agency funds are issued by the benefiting agency. Mr. Howard said historically the bonds would have been issued in each agency's name, but given some of the changes in the way the revenue structures were put together, it was determined that the State Property and Buildings Commission could act on behalf of all these issuers and provide a more effective mechanism to bring this series of projects to market.

In response to another question from Senator Buford, Mr. Howard said each agency will use its own funds and make the payments to the State Property and Buildings Commission, who will in turn make the debt service payments on the bonds. There is no General Fund pledge for these bonds.

Senator Buford made a motion to approve Kentucky State Property and Buildings Commission Revenue Bonds, Project No. 66. The motion was seconded by Representative Wayne and passed by voice vote.

Mr. Howard then presented a new bond issue report for Kentucky Asset/Liability Commission General Fund Tax and Revenue Anticipation Notes 2000 for \$553,288,290.

Representative Wayne made a motion to approve Kentucky Asset/Liability Commission General Fund Tax and Revenue Anticipation Notes 2000. The motion was seconded by Senator Leeper and passed by voice vote.

Mr. Howard next reported two follow-up reports for previously issued bonds: Kentucky Housing Corporation Single-Family Mortgage Revenue Bonds, Draw Down Series of 2000 for up to \$150,000,000 and Kentucky Higher Education Student Loan Corporation Student Loan Revenue Bonds, 2000 Series A (Taxable) and Series B

(Alternative Minimum Tax), for \$150,000,000. Chairman Haydon said no action was required for the follow-up reports.

Mr. Howard reported three new bond issues with School Facilities Construction Commission (SFCC) debt service participation: Bellevue Independent (Campbell Co.); Eminence Independent (Henry Co.); and Henry County.

Senator Jackson made a motion to approve the school bond issues with SFCC debt service participation. The motion was seconded by Senator Leeper and passed by voice vote. Representative Damron abstained from the vote, citing a potential conflict of interest.

Representative Damron said there is language in the 2000 budget that authorizes \$100 million of new offers for School Facilities Construction Commission assistance. He asked when a school district could sell bonds based on the new offers. Dr. Bob Tarvin, Director, School Facilities Construction Commission, said the language also states that no bonded indebtedness on these offers can occur until the 2002-2004 biennium.

Representative Damron asked if they can issue a bond in late 2001. Dr. Tarvin said it was his opinion that the bonds could not be issued until the debt service is appropriated. Representative Damron then stated and Dr. Tarvin confirmed that the legislature did not appropriate any new funds for school construction during the last session.

Chairman Haydon said there was one locally funded school bond issue submitted to the Committee for review this month for Laurel County. He said all disclosure information has been filed and no further action on this bond issue is required.

Chairman Haydon said the Committee's next meeting is scheduled for Tuesday, June 20, 2000, at 1:00 p.m. in Room 129 of the Annex.

With there being no further business, Representative Damron made a motion to adjourn the meeting. The motion was seconded and passed by voice vote. The meeting adjourned at 3:00 p.m.